

3 FAM 3150

SPECIAL PAY PROVISIONS FOR SPECIAL AGENTS IN THE DIPLOMATIC SECURITY SERVICE

(TL:PER-365; 02-11-1999)

3 FAM 3151 AUTHORITIES

(TL:PER-365; 02-11-1999)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

Authorities are published in:

—Section 403, Federal Law Enforcement Pay Reform Act of 1990 (FLEPRA) (PL 101-509)

—Section 404, FLEPRA

—Section 405, FLEPRA

—Section 404, Foreign Service Act of 1980, as amended

—5 U.S.C. 5545(a)

—*Delegation of Authority (delegating from the Undersecretary for Management to the Diplomatic Security (DS) Assistant Secretary authority to carry out Law Enforcement Availability Pay (LEAP)-related functions)*

3 FAM 3152 DEFINITIONS

(TL:PER-365; 02-11-1999)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

a. “Official duty station” means the duty station for the special agent’s position of record as indicated on his or her most recent notification of personnel action.

b. *Except for purposes of determining eligibility for Law Enforcement Availability Pay as provided in 3 FAM 3155, “Special agent” means a member of the Foreign Service, the Senior Foreign Service or the Senior Executive Service, or a GS-1811 criminal investigator, who both:*

(1) Holds valid credentials as a special agent in the Diplomatic Security Service issued by the Director, Diplomatic Security Service; and

(2) Occupies a position with the Foreign Service *primary skill code* or staffing indicator for diplomatic security officer, or the Civil Service occupation code 1811.

c. “Scheduled annual rate of pay” means:

(1) The Foreign Service rate of basic pay for the member’s class and step, exclusive of additional pay of any kind; or

(2) The salary for the member’s salary class in the Senior Foreign Service, exclusive of additional pay of any kind.

d. “Special agent adjusted rate of pay” means a special agent’s scheduled annual rate of pay multiplied by the factor listed in 5 CFR 531.302(a) for the special pay adjustment area in which the employee’s official duty station is located subject to the limitations described in 5 CFR 531.302(b) and (c).

e. “Special pay adjustment area” means an area listed in 5 CFR 531.301. Rates for other covered special agents are also defined in 5 CFR 531.301.

3 FAM 3153 SPECIAL PAY ADJUSTMENTS IN SELECTED CITIES FOR SPECIAL AGENTS IN THE DIPLOMATIC SECURITY SERVICE

3 FAM 3153.1 Who is Covered

(TL:PER-272; 6-30-95)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

Special agents in the Diplomatic Security Service serving in special pay adjustment areas described in 5 CFR 531.301.

3 FAM 3153.2 Determining Special Agent Adjusted Rates of Pay

(TL:PER-272; 6-30-95)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

A special agent’s adjusted rate of pay is determined under the rules provided in 5 CFR 531.302 for special law enforcement adjusted rates of pay.

3 FAM 3153.3 Computation of Hourly, Daily, Weekly, and Biweekly Special Agent Adjusted Rate of Pay

(TL:PER-272; 6-30-95)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

These computations are made under the rules provided in 5 CFR 531.303 for special law enforcement adjusted rates of pay.

3 FAM 3153.4 Administration of Special Agent Adjusted Rates of Pay

(TL:PER-365; 02-11-1999)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

a. Rates shall be administered under the rules provided for special law enforcement adjusted rates of pay in 5 CFR 531.304 and 5 CFR 531.307.

b. A special agent adjusted annual rate of pay is considered basic pay for:

(1) Computing retirement deductions and benefits under chapter 8 of the Foreign Service Act of 1980, as amended;

(2) Computing benefits under section 609(B)(1) of the Foreign Service Act of 1980, as amended; and

(3) Computing benefits covered under 5 CFR 531.304.

c. Termination of a special *agent's* adjusted rate of pay under this section is not an adverse action for the purpose of 5 CFR 752, Subpart D or 3 FAM 4500.

3 FAM 3154 BENEFIT OF SPECIAL RATES FOR SPECIAL AGENTS IN THE DIPLOMATIC SECURITY SERVICE

3 FAM 3154.1 Who is Covered

(TL:PER-272; 6-30-95)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

Special Agents in the Diplomatic Security Service in:

- (1) Foreign Service classes 9 through 5; and
- (2) General Schedule grades 3 through 10.

3 FAM 3154.2 Pay Setting

(TL:PER-272; 6-30-95)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

a. Pay for new appointments in the Foreign Service will be set no lower than:

—FS-9/8

—FS-8/6

—FS-7/5

—FS-6/3

—FS-5/2

b. Pay for covered General Schedule employees will be set in accordance with section 403 of FLEPRA and chapters 530 and 531 of 5 CFR.

3 FAM 3155 LAW ENFORCEMENT AVAILABILITY PAY (LEAP) FOR SPECIAL AGENTS IN THE DIPLOMATIC SECURITY SERVICE

3 FAM 3155.1 Definition of Special Agent

(TL:PER-365; 02-11-1999)

(State Only)

(Applies to Foreign Services and Civil Service Employees)

For purposes of 5 U.S.C. 5545(a) and 5 CFR 550.181—550.187, “special agent” means an employee of the Department of State who:

- (1) Holds valid credentials as a special agent in the Diplomatic Security Service issued by the Director, Diplomatic Security Service; and
- (2) Is otherwise eligible to receive LEAP under 5 CFR 550.103(1), (3), (4), (5), or (6).

3 FAM 3155.2 General

(TL:PER-365; 02-11-1999)

(State Only)

(Applies to Foreign Services and Civil Service Employees)

LEAP is provided in accordance with 5 U.S.C. 5545(a) and the regulations in 5 CFR 550.181—550.187.

3 FAM 3155.3 Involuntary Suspension of LEAP

(TL:PER-365; 02-11-1999)

(State Only)

(Applies to Foreign Services and Civil Service Employees)

a. For Civil Service special agents, an involuntary suspension of LEAP resulting from a denial or cancellation of certification under 5 CFR 184(d) shall be a reduction in pay for the purposes of applying adverse action provisions of 5 U.S.C. 7512 and 5 CFR Part 752.

b. Notwithstanding 5 U.S.C. 7511(a)(1), the following procedures shall apply in the case of Foreign Service special agents subject to involuntary suspension of LEAP resulting from a denial or cancellation of certification under 5 CFR 184(d).

(1) 5 CFR 752.404(b)(1)

(2) 5 CFR 752.404(c)

(3) 5 CFR 752.404(e), and

(4) 5 CFR 752.404(f).

c. The following decertification procedures shall apply to both Civil Service and Foreign Service special agents.

(1) Responsibility for decertification. The DS LEAP advisory panel has responsibility for proposing involuntary suspension of LEAP and denial and cancellation of LEAP certification.

(2) Notice. The DS LEAP advisory panel shall notify the special agent of its proposal to decertify. Such notice shall state the specific reasons for the proposed action and the time period permitted for an answer, and shall inform the special agent of:

(a) The right to review the material which is relied on to support the reasons for the proposal to decertify;

(b) The right to respond orally and/or in writing; and

(c) The right to be represented by an attorney or other representative.

(3) Answer. Upon receipt of the Diplomatic Security LEAP advisory panel proposal to decertify, the special agent may respond orally and/or in writing to the DS Assistant Secretary or the DS Assistant Secretary's designee.

(a) A special agent assigned domestically has 15 calendar days from receipt of the proposal to respond to the DS Assistant Secretary or the DS Assistant Secretary's designee. Written responses from a special agent assigned domestically must be sent via registered mail with return receipt, cable, or facsimile transmission. Upon written request, a reasonable extension of this deadline shall be granted for good cause by the DS Assistant Secretary or the DS Assistant Secretary's designee.

(b) A special agent assigned *abroad* has 30 calendar days from receipt of the proposal to respond to the DS Assistant Secretary or the DS Assistant Secretary's designee. Written responses from a special agent assigned *abroad* must be sent via certified pouch, cable, or facsimile transmission. Upon written request, a reasonable extension of this deadline shall be granted for good cause by the DS Assistant Secretary or the DS Assistant Secretary's designee.

(4) Decision. No fewer than 30 days from the special agent's receipt of the proposal to decertify, the DS Assistant Secretary or the DS Assistant Secretary's designee shall decide whether to decertify the special agent. The DS Assistant Secretary or the DS Assistant Secretary's designee shall send the agent written notification of the decision, including the effective date of decertification and the right to appeal.

(5) Effective date. Decertification and suspension of LEAP will be effective the first day of the first pay period following the DS Assistant Secretary's or the DS Assistant Secretary's designee's decision to decertify.

(6) Appeal Rights.

(a) For Foreign Service special agents, the DS Assistant Secretary's or the DS Assistant Secretary's designee's decision to involuntarily suspend LEAP may be appealed in accordance with the grievance procedures set forth in 3 FAM 4400.

(b) For Civil Service special agents, the DS Assistant Secretary's or the DS Assistant Secretary's designee's decision to involuntarily suspend LEAP may be appealed in accordance with 5 CFR 752.405.

3 FAM 3155.4 Salary for Assignments to Agencies, International Organizations, and Other Bodies

(TL:PER-365; 02-11-1999)

(State Only)

(Applies to Foreign Services and Civil Service Employees)

For Foreign Service special agents assigned to an agency, international organization, or other body under Section 503 of the Foreign Service Act and otherwise eligible to receive LEAP under 5 CFR 550.103(6), LEAP shall be treated as part of salary for purposes of 5 CFR 550.186(b).

3 FAM 3156 THROUGH 3159 UNASSIGNED